

SECTION XVII - NON-CONFORMITIES

Within the districts established by this Ordinance or amendments that may later be adopted, situations may occur where as a result of the regulations contained in this Ordinance an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations contained in this Ordinance. It is the intent of this Ordinance to regulate such nonconforming situations in such a way that they can continue but will ultimately be phased out by limiting their enlargement, expansion or intensification, re-establishment after discontinuance or abandonment, or restoration after damage or destruction in order to bring uses and structures into conformity with goals, objectives, and policies of the Yellow Medicine County Comprehensive Plan. A nonconformity that is determined by the Yellow Medicine County Board of Commissioners to be detrimental to the achievement of the goals and objectives of the Comprehensive Plan may be acquired by the Board by purchase. An unlawful or illegal use of a property or structure as of the effective date of this Ordinance shall not be interpreted to be a nonconforming situation. A non conforming situation located in a Shoreland, Flood Plain, or Scenic River District may be continued subject to additional regulations specified in their respective sections in the Ordinance.

Subdivision 1.0 Nonconforming Use

- A. Any use existing on the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance shall be considered a nonconforming use. A nonconforming use may be allowed to continue, subject to the following conditions:
1. No nonconforming use shall be expanded, enlarged, or intensified except to make it a permitted use.
 2. A change from one nonconforming use to another nonconforming use is prohibited.
 3. A nonconforming use of a parcel of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except uses involving the removal of natural materials such as granite, sand, or gravel. Legal nonconforming mining operations without a valid Conditional Use Permit may be expanded within the boundaries of the parcel in which the mining use was approved and established prior to the time it became nonconforming subject to the standards contained in the Mining Regulations contained in this Ordinance.
 4. If a nonconforming use is replaced by a permitted use, the nonconforming status and any rights that arise under the provisions of this section of the Ordinance are terminated.
 5. A nonconforming use or use of a structure that has been discontinued for a period of 12 consecutive months shall not be re-established, and any further use or occupancy of the structure shall be in conformity with the regulations of this Ordinance. Time will be calculated as

beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.

6. If a structure used for a nonconforming use is damaged to the extent that the cost of replacement, reconstruction or restoration would exceed 50 percent of its current market value, as determined by the County Assessor, then the damaged structure shall not be replaced, reconstructed or restored except in conformity with this Ordinance.

- B. The Planning Commission or Zoning Administrator may require that a Conditional Use permit be issued for any nonconforming use.

Subdivision 2.0 Nonconforming Structure

- A. Any structure existing on the effective date of this Ordinance which is not in conformity with the regulations contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:
 1. No nonconforming structure shall be expanded, enlarged or intensified without first obtaining a variance unless each of the following conditions can be met for the district in which the structure is located:
 - a. The expansion, enlargement or intensification does not violate any other standards of this Ordinance other than the regulation(s) that made the structure nonconforming in the first place.
 - b. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 - c. The expansion, enlargement or intensification does not occur within a bluff or shore impact zone or floodway area.
 2. The replacement, reconstruction, restoration, expansion, enlargement or intensification of an existing residential dwelling which does not meet the residential dwelling setback from an existing livestock feedlot or manure storage structure may be allowed provided that any construction does not further encroach into the nonconforming setback.
 3. A nonconforming structure that has been damaged by fire, explosion, natural disaster, or other peril to the extent of more than 50 percent of its current market value, as determined by the County Assessor, shall not be replaced, reconstructed, restored, expanded, enlarged or intensified except in conformity with this Ordinance with the exception that homestead and nonhomestead residential real estate and seasonal real estate occupied for recreational purposes may be continued including through repair, replacement, restoration,

maintenance, or improvement but not including expansion, if a land use permit has been applied for within 180 days of when the property is damaged. The County Board may impose reasonable conditions upon the permit in order to mitigate any newly created impact on adjacent property.

4. Normal maintenance of a nonconforming structure including nonstructural maintenance and repair is permitted.
5. All construction projects for which a valid zoning permit was granted before the effective date of this Ordinance may be completed although the structure would not meet newly established standards of this Ordinance.

Subdivision 3.0 Nonconforming Lots

- A. Any separate lot or parcel created in accordance with the Yellow Medicine County Subdivision Regulations and of record in the Yellow Medicine County Recorder's Office on or before the effective date of this Ordinance may be used for the legal use for which it is zoned subject to the following conditions:
 1. It can be accessed by a public or a private road.
 2. There is a "buildable area" on the site.
 3. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 4. All other requirements of this Ordinance can be met.
- B. If, in the case of two or more contiguous lots or parcels of land under a single ownership, any individual lot or parcel does not meet the minimum requirements of this Ordinance, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land meeting the full requirements of this Ordinance.
- C. A conforming lot or parcel shall not be reduced in size so that it would become nonconforming in any aspect of this Ordinance.
- D. A nonconforming lot or parcel shall not be reduced in size.
- E. Where a nonconforming lot or parcel or record contains a conforming principal structure, the principal structure may be expanded, enlarged or intensified without a variance provided:
 1. The expansion, enlargement or intensification meets all other standards of this Ordinance.
 2. An on-site sewage treatment system can be installed in accordance with Section XIV of this Ordinance.
 3. The expansion, enlargement or intensification does not occur within a bluff or shore impact zone or floodway area.

Subdivision 4.0 Nonconforming Signs

- A. Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance shall become a nonconforming use.
- B. Business signs on the premises of a nonconforming building or use may be maintained and continued, but such signs shall not be increased in number, area, height, or illumination.
- C. No signs erected before the passage of this Ordinance shall be rebuilt, altered, expanded, or moved to a new location without being brought into compliance with the requirements of this Ordinance.
- D. Repainting, cleaning and other normal maintenance or repair of the sign or sign structure is permitted.
- E. In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of 12 months, the structure shall be removed by the owner or lessor at the request of the Zoning Administrator.